

HOUSE BILL No. 1414

DIGEST OF INTRODUCED BILL

Citations Affected: IC 3-14-1-17.

Synopsis: False campaign material. Makes the intentional participation in the preparation, dissemination, or broadcast of paid political advertising or campaign material, or in the drafting of a letter to the editor, a Class A misdemeanor, if the advertising, material, or letter: (1) concerns the personal or political character or act of a candidate, or the effect of a public question to be submitted to the electorate; (2) is designed to or tends to elect, promote, injure, or defeat the candidate or a public question; and (3) contains information or a statement that is false, if a person knew the information or statement was false or acted with reckless disregard as to truth or falsity. Exempts a person who merely prepares, disseminates, or broadcasts the material or letter in the normal course of business. Provides that a candidate who violates this provision forfeits the nomination or public office (if elected), unless the violation was trivial or occurred despite the candidate's good faith.

Effective: July 1, 2005.

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January 13, 2005, read first time and referred to Committee on Elections and Apportionment.

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First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

HOUSE BILL No. 1414

A BILL FOR AN ACT to amend the Indiana Code concerning elections.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 3-14-1-17 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 17. (a) Except as provided in subsection (c), a person who intentionally participates in the preparation, dissemination, or broadcast of paid political advertising or campaign material, or in the drafting of a letter to the editor of any publication, that:**

(1) concerns:

(A) the personal or political character or acts of a candidate for nomination or election to a public office; or

(B) the effect of a public question;

(2) is designed or tends:

(A) to elect, promote, injure, or defeat the candidate; or

(B) to promote or defeat the public question; and

(3) contains information or a statement that is false;

commits a Class A misdemeanor.

(b) A person violates subsection (a) if the person:

(1) knew that the material or letter contained information or

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1 a statement that was false; or

2 (2) took the action described in subsection (a) with reckless
3 disregard as to whether the material or letter contained
4 information or a statement that was false.

5 (c) Subsection (a) does not apply to a person or organization
6 whose sole act is, in the normal course of business, the printing,
7 manufacturing, dissemination, or broadcast of the material or
8 letter containing the false information or statement.

9 (d) Except as provided in subsection (f), if:

10 (1) a candidate for nomination or election to a public office is
11 convicted of a violation of subsection (a); or

12 (2) another person is found to have violated subsection (a)
13 with the knowledge, consent, or connivance of a candidate for
14 nomination or election to a public office;

15 the court shall enter an order declaring that the candidate (if
16 nominated or elected) has forfeited the nomination or office and
17 that the nomination or office is vacant.

18 (e) An order entered under subsection (d) shall be filed with the
19 person or entity that has the power to fill the vacancy or to call a
20 caucus for the purpose of filling the vacancy. The vacancy shall be
21 filled under IC 3-13. However:

22 (1) the candidate whose nomination or election has been set
23 aside for a violation of subsection (a); or

24 (2) another person convicted of a violation of subsection (a);
25 may not be selected or elected to fill the vacancy, regardless of any
26 law to the contrary.

27 (f) If, during the trial for a violation of subsection (a), the court
28 finds that:

29 (1) although committed by the candidate or with the
30 candidate's knowledge, consent, or connivance, the offense:

31 (A) was trivial; or

32 (B) occurred because of accidental miscalculation or
33 another reasonable cause and not because of lack of good
34 faith; and

35 (2) it would be unjust for the candidate to forfeit the
36 candidate's nomination or election under subsection (d);
37 the candidate does not forfeit the nomination or election.

38 (g) The court findings described in subsection (f) are not a
39 defense in a criminal trial for a violation of subsection (a).

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